

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
Nashville Division**

L.W., by and through her parents and next friends, Samantha Williams and Brian Williams, et al.,

Plaintiffs,

v.

JONATHAN SKRMETTI, in his official capacity as the Tennessee Attorney General and Reporter, et al.,

Defendants.

Civil No. 3:23-cv-00376

Judge Richardson

Judge Newbern

**PLAINTIFFS' REPLY IN SUPPORT OF
MOTION TO PROCEED PSEUDONYMOUSLY**

Plaintiffs John Doe, by and through his parents and next friends, Jane Doe and James Doe; Jane Doe; James Doe; Ryan Roe, by and through his parent and next friend, Rebecca Roe; and Rebecca Roe (collectively, “Movants”) hereby submit their reply to *Defendants’ Response to Plaintiffs’ Motion for Leave to Proceed Pseudonymously*, dated May 2, 2023 [ECF No. 76] (the “Response”). Through this reply, Movants seek to underscore the importance of proceeding under pseudonym and oppose one of the Defendants’ proposed three conditions to consenting to the *Plaintiffs’ Motion to Proceed Pseudonymously*, dated April 21, 2023 [ECF No. 19] (the “Motion”).

ARGUMENT

As explained in the Motion, courts in this Circuit have repeatedly permitted transgender individuals to proceed pseudonymously in recognition of the intimate nature of the information required to be disclosed, as well as the risks of “retaliation, harassment, and social stigma” associated with their gender identity. *Ray v. Dir., Ohio Dep’t of Health*, No. 2:18-cv-272, 2018 WL 8804858, at *1 (S.D. Ohio Apr. 5, 2018); *see also, e.g., Bd. of Educ. of Highland Loc. Sch. Dist. v. U.S. Dep’t of Educ.*, No. 2:16-CV-524, 2016 WL 4269080, at *5 (S.D. Ohio Aug. 15, 2016); *Love v. Johnson*, 146 F. Supp. 3d 848, 856 (E.D. Mich. 2015).

In their Response, Defendants ask the Court to place three conditions on Movants’ right to proceed pseudonymously. The first and third are acceptable to Movants; the second is not. Specifically, Defendants’ second proposed condition is that “during this litigation, Defendants shall not publicly or privately disclose or identify for any purpose that these movant-plaintiffs are parties to the case, *except ‘to the full extent necessary to defend the law being challenged.’*” Response at 689 (emphasis added).¹ Defendants offer no support for demanding the unbounded

¹ Pincites to record materials reference the “Page ID” numbers in the ECF file stamps.

right to disclose “publicly” Plaintiffs’ identities as they see fit and fail to explain how Movants would be protected by an order that cedes to the opposing party the authority to determine whether and when to reveal their identities.

The Amended Proposed Order, attached as Exhibit 1, incorporates the first and third conditions requested by Defendants and otherwise sets forth the specific procedures and protections that Movants believe are appropriate to protecting their identity, while still giving Defendants sufficient room to defend the Ban.² Among other things, the Amended Proposed Order (i) permits Defendants’ counsel to disclose Identifying Information to Defendants, Defendants’ employees, and experts retained in this action “to the minimum extent necessary to litigate this action,” provided such persons have been provided with and read the Amended Proposed Order, (ii) permits Defendants’ counsel to disclose Identifying Information on third-party subpoenas “to the minimum extent necessary to litigate this action,” provided such third-party has been provided with and read the Amended Proposed Order, and (iii) provides a mechanism for the parties to meet-and-confer if future issues arise and seek Court intervention as needed. To require any less would endanger Movants, particularly given the reality that involuntary disclosure of a person’s transgender status “exposes transgender individuals to a substantial risk of stigma, discrimination, intimidation, violence, and danger.” *See Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 3d 327, 333 (D.P.R. 2018).

For the foregoing reasons, and those identified in the Motion, the Court should grant the Motion and order the relief set forth in the Amended Proposed Order.

² Plaintiffs provided a copy of the Amended Proposed Order to Defendants in an effort to resolve this dispute without the Court’s involvement, but Defendants rejected Plaintiffs’ offer and continue to insist upon the inclusion of all three conditions.

Dated: May 9, 2023

s/ Stella Yarbrough

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2023, the undersigned filed the foregoing Plaintiffs' Reply in Support of Motion to Proceed Pseudonymously via this Court's electronic filing system, which sent notice of such filing to the following counsel of record:

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